

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED )	ORDER REQUIRING AN
BY BRENT AND DAWN BARTON, MINA, )	ANSWER
SOUTH DAKOTA, AGAINST U S WEST )	
COMMUNICATIONS, INC. REGARDING )	TC98-137
UPDATING LINES )	

On July 24, 1998, the Public Utilities Commission (Commission) received a complaint filed by Brent and Dawn Barton, Mina, South Dakota, against U S WEST Communications, Inc. (U S WEST). The complainants state: "We have lived in this area for 14 years and had problems for several years . . . we don't have a phone for 2-3 days at a time. [W]hen the phone is working, there's so much static you can't hear the person talking." The complainants requested the following relief: "U S WEST needs to put in new phone lines. Also, to be compensated for the many years of problems with our phone lines, by the phone company."

Pursuant to ARSD 20:10:01:08.01 and 20:10:01:09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On August 4, 1998, at a duly noticed meeting, U S WEST stated that the problem area that the Bartons complained of was scheduled to be updated by October 31, 1998. The Commission voted unanimously to find probable cause. As U S WEST stated that the facilities that serve the Bartons will be updated this year, the Commission deferred any action on the complaint until October 31, 1998. The Commission also decided to defer any action on the issue of damages until October 31, 1998. By letter dated October 15, 1998, U S WEST informed the Commission that the Mina Lake project had been completed and all the customers were cut over to the new system. At its regularly scheduled November 3, 1998, meeting, the Commission deferred this matter until Commission Staff confirmed with the Bartons how they wanted to proceed with their damages claim. At its regularly scheduled November 25, 1998, meeting, Commission Staff reported that the Bartons wanted to proceed with the damages portion of their complaint. The Commission ordered that U S WEST file its answer to the complaint within 20 days.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-60 through 49-31-68, inclusive, and ARSD 20:10:01:07.01 through 20:10:01:15.01, inclusive. It is therefore

ORDERED, that the complaint shall be forwarded to U S WEST and U S WEST shall file with the Commission its answer in writing within twenty (20) days of service of this order.

Dated at Pierre, South Dakota, this 17<sup>th</sup> day of December, 1998.

<b>CERTIFICATE OF SERVICE</b>	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Maureen Kalbo</u>
Date:	<u>12/11/98</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner